



***Town of Tyngsborough
Conservation Commission***

25 Bryants Lane
Tyngsborough, Massachusetts 01879-1003
Office: (978) 649-2300 ext. 116
Fax: (978) 649-2301

Minutes
July 10, 2012
APPROVED

Present:

BM: Brian Martin **JE:** Jerry Earl **LG:** Lucy Gertz **LB:** Linda Bown **MM:** Matt Marro

Absent:

JK: Jeff Kablik **ES:** Ed Smith

Attachments:

1. Agenda
2. 62 Appaloosa Circle RDA Application – 6/6/2012
3. 171 Scribner Rd. Site Plan – 5/16/12
4. 7 Shetland Circle Site Plan – 8/30/96
5. 82 Chestnut Rd. Site Plan – 1/11/08
6. Whitman & Bingham Report for 15 Steinbeck St. – 5/18/12
7. Final Construction Plan for Maple Ridge – 8/23/04
8. William Griffin Conservation Restriction at 208 Middlesex Rd. – 7/10/12

7:00pm BM opened meeting

7:02pm 62 Appaloosa Circle (**M15, P1, L22**) – **Request for Determination of Applicability** for the proposed construction of a 14' x 29' 2-story, 1 car garage addition.

LB: Motion to waive the reading of the abutters list and legal notice.

LG: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 2

Passes: 4-0-2

The property owners appeared before the Commission and explained their project. MM did a thorough inspection of the property and reported that the project is 85' from the wetlands and will have no impact on the wetlands or erosion problems. There were no abutters present to speak on this hearing.

JE: Motion to close the hearing.

LB: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 2

Passes: 4-0-2

JE: Motion to issue a Negative Determination of Applicability for 62 Appaloosa Circle
LG: 2nd the motion
In Favor: 4 Opposed: 0 Absent: 2
Passes: 4-0-2

Director's Determinations:

171 Scribner Rd. – above ground pool & deck

MM reported that the pool would be placed just outside of the buffer zone and would not impact the wetlands.

LG: Motion to approve the Director's Determination for 171 Scribner Rd. MM should educate the homeowner regarding the best filtration system to use in order to protect the wetlands.

JE: 2nd the motion
In Favor: 4 Opposed: 0 Absent: 2
Passes: 4-0-2

7 Shetland Circle – 10' x 12' shed

MM reported that the shed would be placed outside of the no-structure zone and would be built on blocks with no footings being dug. This method will not impact the wetlands.

LG: Motion to approve the Director's Determination for 7 Shetland Circle. MM should educate the homeowner regarding the safe storage of fuels in order to protect the wetlands.

JE: 2nd the motion
In Favor: 4 Opposed: 0 Absent: 2
Passes: 4-0-2

Discussion

Sherburne Nature Center Boardwalk Project Update

LG reported that there was no new information to report. BM said that he would talk to Michael Gilleberto for an update on the bid.

Steinbeck St. – Walter Eriksen

Engineer Anthony Cleaves from Whitman & Bingham appeared before the Commission to discuss their report dated 5/18/12 regarding the grading at 15 Steinbeck St. Essentially, they concluded that the as-built grading performed to the rear of 15 Steinbeck St. does not match the approved design plans. In addition, the "flat" ground slope to the rear of the dwelling may contribute to localized ponding during heavy rainfall events and/or snow melt events. MM asked what would be the best solution for the problem. Mr. Cleaves suggested that there could be several ways of alleviating the problem, a couple of examples would be an area drain or a sub-drain on the property, but wouldn't want to disturb too much of the existing grading and the retaining wall in the back yard.

MM spoke with the developer Walter Eriksen earlier in the week and reported that Mr. Eriksen was not willing to commit to any action until his expert had a chance to investigate the claims.

Engineer Steve Eriksen appeared before the Commission representing Maple Ridge developer Walter Eriksen. Mr. Eriksen began by stating that the Commission's jurisdiction is only within the buffer zone and this issue is outside of that zone, a fact that MM disagreed with, noting the Town's Stormwater By-law. Mr. Eriksen contends that the as-built grading is within inches of the originally proposed grading, and they do not see any problem with the grading as it is, and they do not intend to do any other work on that site. Mr. Cleaves commented that during their investigation, they did not note any construction benchmarks on site. Therefore, they utilized the grade that was on the proposed plans which could explain why the numbers differ slightly from the as-built numbers.

BM asked Mr. Eriksen who built the retaining wall. Mr. Eriksen said that it's just a yard ornament that makes it look nice in the back. BM also confirmed Mr. Eriksen's contention that anything that happens in the backyard of the property is outside of the Commission's jurisdiction. However, MM said that the way DEP looks at it, any stormwater run-off that flows toward the buffer zone is considered jurisdictional.

Bill Marks of 15 Steinbeck St. contends that the actual foundation was built 1 foot lower than what was originally proposed to be built, which is what started the problem in the first place. He went on to say that there was a drainage ditch proposed on the original plans that was never put in. Mr. Cleaves added that during his survey he noted that the house is actually 7 inches lower than what was proposed. Ed Wallace of 17 Steinbeck St. commented that there has always been a water ponding problem over there since the house was built and contends that the builder put himself in the position where he couldn't grade the area properly and hasn't yet fixed the problem. Nancy Carringer of 13 Steinbeck St. has had similar water pooling problems and felt that Walter Eriksen never really has taken care of the situation. S. Eriksen maintained that the elevations pitch away from the house and the drainage seems to work as it was designed. Ms. Carringer said the land goes up to the road and down toward the back of the house and the water just sits there.

LB stated that there is obviously a problem and there seems to be a communication problem between the resident and the developer. Steve Eriksen noted that Walter Eriksen has done a multiple of things on that lot on a number of occasions and feels that he has addressed the concerns and the remainder of the problems are now a civil matter and not the jurisdiction of the Conservation Commission.

BM asked if S. Eriksen could look at the foundation and see if it's at the proper height, using the existing benchmarks while BM checks with Town Counsel regarding Conservation's jurisdiction. MM said that he would confer with Town Counsel. BM said that this discussion will be continued until the July 24, 2012 meeting.

New Business:

Director's Determination for 82 Chestnut Rd. – above ground pool

MM reported that the pool is just outside of the buffer zone and wouldn't impact the wetlands.

LB: Motion to approve the Director's Determination for 82 Chestnut Rd. MM should educate the homeowner regarding the best filtration system to use in order to protect the wetlands.

LG: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 2

Passes: 4-0-2

Atty. Ray Lyons – Conservation Restriction Discussion for 208 Middlesex Rd.

Atty. Lyons appeared before the Commission to discuss a Conservation Restriction application with the Division of Conservation Services at the Executive Office of Energy & Environmental Affairs. The conservation restriction is a voluntary limitation on the use of land designed to preserve it from adverse future change. The area is located on Flint Pond and the Public Access Board's bridge and parking area. It is the intent of the landowner to maintain public access to a pedestrian bridge to the public portion of the property that lies within 100 feet of the pedestrian bridge. The owner must reserve the right to install a septic system, well, and other utilities in the restricted area. Atty. Lyons went on to say that the property is mostly upland and includes over 1200 feet of shoreline on Flint's Pond, with a wide variety of habitat, and scenic views from the pond. The landowner maintains ownership of the property but allows public access and protections from future development. The Board of Selectmen must also approve it after the Conservation Commission's approval.

LB: Motion to accept the granting of a Conservation Restriction for 208 Middlesex Rd.

JE: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 2

Passes: 4-0-2

JE: Motion to approve the language, sign, and send to the Board of Selectmen for approval of a Conservation Restriction for 208 Middlesex Rd.

LB: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 2

Passes: 4-0-2

Sherburne Nature Center Heating System

LG reported that the heating system at the Sherburne House needs to be replaced. There is money available in the Sherburne Nature Center account that will cover this expense; the Commission just needs to vote on the expense.

JE: Motion to allocate the funds to repair the heating system at the Sherburne House.

LB: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 2

Passes: 4-0-2

Administrative:

LB: Motion to approve the minutes from the June 12, 2012 meeting.

LG: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 2

Passes: 4-0-2

Energy & Environmental Affairs Committee Designee – Chairman Brian Martin volunteered to be the Conservation Commission designee on this committee.

8:30pm

LB: Motion to adjourn

LG: 2nd the motion

In Favor: 4 Opposed: 0 Absent: 2

Passes: 4-0-2

Respectfully for the Conservation Commission,

Pamela Berman
Administrative Assistant